SINGLE BENCH (1)

P.F. No. 5297/06
Presented by Sh. Somya Singh
dated 21/9/06

CF 1002 — 04

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. NO. (S) 5254 /2006 (S.B.)

Service Matter

PETITIONER : Shailendra Tandon, S/o. Shri Gopal Prasad Tandon Occupation- Patwari. Aged about 33 years R/o Tarbaher Dist. Bilaspur. C.G.

VERSUS

RESPONDENTS :
1. State of Chhattisgarh Through Secretary Deptt. of Revenue , Mantralay D.K.S. Bhawan, Raipur (C.G.)
2. Additional commissioner Through – commissioner Land record Chhattisgarh Raipur (C.G.)
3. Collector Bilaspur Dist. Bilaspur (C.G.)
4. S.D.O. Bilaspur (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5254 of 2006

Petitioner: Shailendra Tandon

Versus

Respondents: State of Chhattisgarh & others

Post for order on 10th November, 2006.

Sd/-
Satish K. Agnihotri
Judge

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5254 of 2006

Petitioner: Shailendra Tandon

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Smt. Renu Kocher, Advocate for the petitioner.

Shri V. V. S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents.

ORDER

(10th November, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner is employed as Patwari and posted in district-Bilaspur. By order dated 15.2.2006 (Annexure P/2) the petitioner was transferred from Patwari Halka Number 7 Baitra, Gadhvat to Patwari Halka No. 20 Tahsil and District – Bilaspur. Before the said transfer order could be given effect to, it was amended by subsequent order dated 30.6.2006 (Annexure P/4) whereby the petitioner was posted at Patwari Halka No. 19 Tahsil and District-Bilaspur instead of Patwari Halka No. 20 as per the earlier transfer order dated 15.2.2006.

2. Being aggrieved the petitioner filed W.P.No. 3684/2006, impugning the subsequent transfer order dated 30.6.2006 whereby the earlier transfer order dated 15.2.2006 was amended and he was posted at Patwari Halka No. 19. This Court after hearing learned counsel appearing for the parties, at the request of learned counsel for the petitioner, granted liberty to the

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petitioner to make a representation before the Secretary Department of Revenue, Mantralaya, D.K.S. Bhawan Raipur (Respondent No. 1). The respondent No. 1 after having considered the representation of the petitioner as well as other attending circumstances passed the order dated 6.9.2006 (Annexure P/1), as under:-

> "3/– श्री टण्डन पटवारी द्वारा माननीय न्यायालय के आदेश के परिपालन में अभ्यावेदन प्रस्तुत किया गया इनके अभ्यावेदन पर विचार किया गया । चूँकि श्री टण्डन का बार–बार राज्य शासन द्वारा स्थानांतरण किया गया है तथा पदस्थापना हल्का रिक्त नहीं है श्री टण्डन द्वारा शासन के जारी आदेश दिनांक 15.02.2006 के अनुसार हल्का नंबर–20 बिलासपुर का विकल्प चाहा है परन्तु इस हल्के पर भी राज्य शासन द्वारा श्री सूर्यप्रकाश शुक्ला को मस्तूरी से पदस्थ किया गया है ।
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> अतएव उपरोक्त वर्णित स्थिति पर विचार करते हुये श्री शैलेन्द्र टण्डन पटवारी का राज्य शासन द्वारा किया गया स्थानांतरण आदेश दिनांक 30.06.2006 निरस्त किया जाकर उन्हें वर्तमान हल्के पर ही पदस्थ रखा जाता है ।"

3. I have heard learned counsel for the petitioner and perused the records appended to the petition. On consideration it is found that there is no proved malafide or any violation of the statutory rules or regulations. In fact transfer of persons holding the post of Patwari, within the district, depends on allocation of works, which is in public interest and due to the administrative exigency. I do not find any infirmity in the order dated 6.9.2006 (Annexure P/1) passed by the Government. Thus the petition is devoid of merit.
4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can

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interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.

5. In view of the foregoing, the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur